

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5001 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT RAJYA SAHAKARI KHAND UDYOG SANGH LTD

Versus

MANHARLAL D MEHTA

Appearance:

MR GN DESAI for Petitioners

MR PV NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/12/96

ORAL JUDGMENT

Shri P.V.Nanavati, advocate, pleads no instructions on behalf of the respondent. Heard learned counsel for the petitioner and perused the Special Civil Application.

2. The respondent, who was an employee of the petitioner-Society filed Lavad Case No.2008 of 1985 against the order of termination of his services and he

further prayed for some other benefits. He prayed for grant of interim relief in the form of temporary injunction restraining the Society from implementing the order dated 11.1.85, under which his services were terminated. The Board of Nominees granted interim relief in favour of the respondent. The petitioner has challenged that order of grant of ex parte interim relief in the form of temporary injunction by filing a Revision Application No.60 of 1985 before the Gujarat State Cooperative Tribunal at Ahmedabad. The said Revision Application came to be dismissed by the Tribunal under its order dated 28th August 1985. Hence this Special Civil Application by the petitioners.

3. On 13th September 1985, this Court admitted the petition and granted ad-interim stay of the operation of the order of injunction, which order reads as under:

Rule.

Adinterim stay of the operation of the order of injunction on assurance by Mr.G.N.Desai, to be followed by a resolution of the Board to be produced on the record of this case that in case the petitioner is declared by the Competent authority to be entitled to continue in service, he will be given all monetary benefits with 12% interest thereof. In the meantime, the Nominee is free to go ahead with the suit, and I would direct that it should take it up reasonably speedily.

4. The learned counsel for the petitioner made manifold contentions challenging the order of the interim relief in the form of temporary injunction by the Board of Nominees as well as dismissal of Revision Application against the said order by the Tribunal, but I do not consider it to be appropriate to go on these questions and to decide the same for the obvious reason that the aforesaid order remained under stay for all these years and I do not consider it appropriate now to give effect to that interim relief granted by the Board of Nominees. Grant of interim relief of the nature which has been made in the present case by the Board of Nominees in fact and substance is grant of final relief. In the matter of termination of services, it is difficult to say that in case mandatory injunction is not granted or operation of the order of termination is not stayed, the employee concerned will suffer any irreparable injury which cannot be compensated in terms of money. The Lavad suit is pending since 1985 and this Court has not stayed the proceedings thereof. In normal course, by this time, the

Lavad suit should have been decided, but Shri G.N. Desai, has given out that it is still pending. In the above facts and circumstances, interest of justice will be met in case this writ petition is disposed of with direction that the interim relief by way of temporary injunction granted by the Board of Nominees shall remain stayed and the Board of Nominees shall decide the suit as early as possible, say within six months from the date of receipt of certified copy of this order. However, in eventuality of success of the respondent in the suit finally, the society shall abide by the assurance given by its counsel before this Court and as incorporated in the order dated 13th September, 1985.

5. In the result this writ petition is disposed of with aforesaid directions. Rule is made absolute in aforesaid terms with no order as to costs.

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(sunil)